

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

301 State House
(317) 232-9855

FISCAL IMPACT STATEMENT

LS 6334

BILL NUMBER: HB 1112

DATE PREPARED: Nov 16, 1998

BILL AMENDED:

SUBJECT: Abandoned cemeteries.

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FUNDS AFFECTED: ☒ **GENERAL**
☒ **DEDICATED**
FEDERAL

IMPACT: State & Local

Summary of Legislation: This bill requires a person who discovers buried human remains as a result of land development to notify the Department of Natural Resources (DNR) not later than two business days after the discovery. It provides that all development must cease until the township board of the township that contains a majority of the property where the human remains were discovered issues a ruling permitting the continuation of development. The township board would be required to base its ruling on a report by the DNR. The bill also provides that if the township board issues a ruling in favor of the continuation of development, the person effecting the removal of the human remains shall rebury the remains in a suitable site and remove and protect all tombstones or other markers or provide suitable replacements at a cost to be borne by the person effecting the removal.

Effective Date: July 1, 1999.

Explanation of State Expenditures: This bill provides requirements for the DNR in the event of inadvertent discovery of human remains through land development. The DNR would be required to notify the owner of the property and the township board that contains the majority of the property where the discovery is made. The Department must also investigate and prepare a recommendation concerning the continuation of development on the discovery site. Historical and cultural factors must be considered in the formation of this report. The DNR's Division of Historic Preservation and Archaeology reports that it investigates about fifteen inadvertent discoveries of human remains each year.

The bill outlines a schedule for investigation and reporting. The Department must issue its recommendation to the township board within seven days upon notice of discovery of the remains. The board is authorized to grant the DNR a thirty-day extension for the investigation. The time typically needed to complete such an investigation varies, but the Division of Historic Preservation and Archaeology reports that it employs a goal of 30 days. More detailed information about the ability of the Division to meet the proposed timetable is not available at this time.

The funds and resources required to comply with the proposed reporting and investigation schedule could be supplied through a variety of sources, including: (1) Existing staff and resources not currently being used to capacity; (2) Existing staff and resources currently being used in another program; (3) Funds that, otherwise, would be reverted; or (4) New appropriations. Ultimately, the source of funds and resources required to satisfy the requirements of this bill will depend upon legislative and administrative actions.

If the township board rules that development may proceed on the discovery site, the person removing the remains will bear the costs involved. This person must also protect any tombstones or grave markers and abide by rules of removal to be established by the DNR.

Explanation of State Revenues: Intentionally violating the provisions of this bill would constitute a Class A misdemeanor. If additional court cases occur and fines are collected, revenue to both the Common School Fund and the state General Fund could increase. The maximum fine for a Class A misdemeanor is \$5,000. Criminal fines are deposited in the Common School Fund. If the case is filed in a circuit, superior, county or municipal court (courts of record), 70% of the \$120 court fee that is assessed and collected when a guilty verdict is entered would be deposited in the state General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the state General Fund.

Explanation of Local Expenditures: Township boards in localities where human remains are discovered may incur some additional costs from meetings resulting from this proposal. Township boards would be directed to issue a ruling on the continuation of farming or development within seven days of receiving a recommendation from the DNR. However, because there are so few instances each year, additional expenditures are expected to be minimal.

A Class A misdemeanor is punishable by up to one year in jail. The average daily cost to incarcerate a prisoner in a county jail is approximately \$44.

Explanation of Local Revenues: If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from the following sources: (1) The county general fund would receive 27% of the \$120 court fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. (2) A \$3 fee would be assessed, and if collected would be deposited into the county law enforcement continuing education fund. (3) A \$2 jury fee is assessed, and if collected, would be deposited into the county user fee fund to supplement the compensation of jury members.

State Agencies Affected: Department of Natural Resources.

Local Agencies Affected: Township boards, trial courts, local law enforcement agencies.

Information Sources: Division of Historic Preservation and Archaeology, Department of Natural Resources, (317) 232-1646.